

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

FIDELITY AND DEPOSIT COMPANY OF
MARYLAND,

Plaintiff,

vs.

F.A.S.T. SYSTEMS, INC., et al.,

Defendants.

Case No. 2:13-cv-00861-JAD-CWH

ORDER

Having reviewed and considered Plaintiff Fidelity and Deposit Company of Maryland's ("Fidelity") Renewed Motion for Entry of Default Judgment (Doc. #18) against Defendants Joshua T. McConnico and Kimberly McConnico, the Court has determined that an evidentiary hearing is necessary to determine Fidelity's damages for the claims paid on the bonds at issue.

The Court notes that Fidelity already has provided the declaration of Penny Bellinger, a Fidelity representative, stating that Fidelity's loss for claims paid on Bond No. 9017668 is \$2,472,692.71. (Renewed Mot. for Default J. (Doc. #18) ["Renewed Mot."], Ex. A at 2.) Attached to the declaration are Fidelity's internal Payment/Recovery History records that document various financial transactions related to claims made on Bond No. 9017668. (*Id.* at 5-28.) However, Bellinger's declaration does not specify which transactions in the Payment/Recovery History correspond with the figure of \$2,472,692.71 or otherwise itemize this amount. Nor does Bellinger's declaration explain why the documentation relates to only one of the bonds when there are nine bonds at issue in this case. (Am. Compl. at 3.) The Court therefore will require Fidelity to file an itemization of the individual claims paid that correspond to Fidelity's requested damages in the amount of \$2,472,692.71 before the evidentiary hearing.

The Court also notes that Bellinger's declaration states that Fidelity has incurred legal fees, consultant, and claim investigation expenses in the amount of \$135,272.11. (Renewed Mot., Ex. A

1 at 2.) Fidelity does not provide a description of or basis for the legal fees or an attorney affidavit
2 that meets the requirements of Local Rule 54-16. The Court therefore will require Fidelity to file
3 an attorney affidavit and provide itemized billing records that meet the requirements of this Court's
4 Local Rules before the evidentiary hearing.

5 IT IS THEREFORE ORDERED that an evidentiary hearing is set for Monday, August 31,
6 2015, at 9:00 a.m. in Courtroom 3C, in the United States District Court, District of Nevada, located
7 at 333 S. Las Vegas Blvd., Las Vegas, Nevada, 89101.

8 IT IS FURTHER ORDERED that on or before Thursday, August 27, 2015, Fidelity must
9 file an itemization of the individual claims paid and an affidavit regarding attorney's fees that
10 meets the requirements of this Order and the Court's Local Rules.

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12 DATED: August 20, 2015.

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15 C.W. Hoffman, Jr.
16 United States Magistrate Judge
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